

Coast Guard, DHS

§4.40-15

§4.40-3 Relationship to Coast Guard marine investigation regulations and procedures.

(a) The Coast Guard's responsibility to investigate marine casualties is not eliminated nor diminished by the regulations in this subpart.

(b) In those instances where the National Transportation Safety Board conducts an investigation in which the Coast Guard also has responsibility under 46 U.S.C. Chapter 63, the proceedings are conducted independently but so as to avoid duplication as much as possible.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

§4.40-5 Definitions.

As used in this subpart:

(a) *Act* means title III of Public Law 93-633, the Independent Safety Board Act of 1974, (49 U.S.C. 1131).

(b) *Board* means the National Transportation Safety Board.

(c) *Chairman* means the Chairman of the National Transportation Safety Board.

(d) *Major marine casualty* means a casualty involving a vessel, other than a public vessel, that results in:

- (1) The loss of six or more lives;
- (2) The loss of a mechanically propelled vessel of 100 or more gross tons;
- (3) Property damage initially estimated at \$500,000 or more; or
- (4) Serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials.

(e) *Public vessel* means a vessel owned by the United States, except a vessel to which the Act of October 25, 1919, c.82, (41 Stat. 305, 46 U.S.C. 363) applies.

(f) *Vessel of the United States* means a vessel:

- (1) Documented or required to be documented under the laws of the United States;
- (2) Owned in the United States; or
- (3) Owned by a citizen or resident of the United States and not registered under a foreign flag.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 95-028, 62 FR 51195, Sept. 30, 1997]

§4.40-10 Preliminary investigation by the Coast Guard.

(a) The Coast Guard conducts the preliminary investigation of marine casualties.

(b) The Commandant determines from the preliminary investigation whether:

(1) The casualty is a major marine casualty; or

(2) The casualty involves a public and a non-public vessel and at least one fatality or \$75,000 in property damage; or

(3) The casualty involves a Coast Guard and a non-public vessel and at least one fatality or \$75,000 in property damage; or

(4) The casualty is a major marine casualty which involves significant safety issues relating to Coast Guard safety functions, e.g., search and rescue, aids to navigation, vessel traffic systems, commercial vessel safety, etc.

(c) The Commandant notifies the Board of a casualty described in paragraph (b) of this section.

[CGD 76-149, 42 FR 61200, Dec. 1, 1977, as amended by CGD 82-034, 47 FR 45882, Oct. 14, 1982]

§4.40-15 Marine casualty investigation by the Board.

(a) The Board may conduct an investigation under the Act of any major marine casualty or any casualty involving public and non-public vessels. Where the Board determines it will convene a hearing in connection with such an investigation, the Board's rules of practice for transportation accident hearings in 49 CFR part 845 shall apply.

(b) The Board shall conduct an investigation under the Act when:

(1) The casualty involves a Coast Guard and a non-public vessel and at least one fatality or \$75,000 in property damage; or

(2) The Commandant and the Board agree that the Board shall conduct the investigation, and the casualty involves a public and a non-public vessel and at least one fatality or \$75,000 in property damage; or

(3) The Commandant and the Board agree that the Board shall conduct the investigation, and the casualty is a major marine casualty which involves